

Applicant : Gregg D. Wilensky  
Serial No. : 10/678,366  
Filed : October 3, 2003  
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Attorney Docket No.: 07844-617001 / P574

Amendments to the Drawings:

The attached replacement sheet of drawings includes changes to Fig. 3 and replaces the original sheet including Fig. 3.

Attachments following last page of this Amendment:

Replacement Sheet (1 page)  
Annotated Sheet Showing Changes (1 page)

### REMARKS

In response to the Office Action dated June 12, 2007, applicant submits the following amendments and remarks. Claims 1-48 are pending. Reconsideration and allowance of the above-referenced application are respectfully requested in light of the following remarks.

#### **Claims**

Claims 1, 19, and 25 have been amended to include the limitations that neighborhoods are automatically determined. This limitation is supported by the specification, for example, at page 13, lines 14-16. The Applicants respectfully request the Examiner to enter these amendments.

#### **Drawings**

The examiner asserted that the figures provide no examples of the location and the surrounding neighborhoods as recited in the independent claims. Applicants respectfully maintain that since the description in the specification is clear, no such figure is necessary. The specification does not limit the shape or position of a neighborhood as it surrounds the location, and the term “surrounds” is clear.

Moreover, the examiner seems to have misunderstood the cited section of the specification at page 7. *See* Office Action, page 5. The Examiner argued that “figure 1 of Kokemohr shows a first neighborhood surrounding (where surrounding is defined by applicant at page 7 of the specification) the location where the attributes of pixels ... are used to determine tone adjustment values.” This statement is simply not true. This section of the applicant’s specification describes a measure of the neighborhood size: “[t]he neighborhood size 215 can be a characteristic size, such as a radius of a circular neighborhood or one or more sides of a square or rectangular neighborhood.” *See* p. 7, lines 18-20. In order to expedite prosecution of this matter, however, Figure 3 has been amended to include neighborhoods surrounding a picture location. Accordingly, the applicants respectfully request that the drawing object be withdrawn.

### Section 101 Rejections

Claims 25-42 stand rejected under 25 U.S.C. §101 because the claimed invention allegedly is directed to non-statutory subject matter. Claim 25 has been amended to recite “computer-readable medium” and “computer processing apparatus” as suggested by the Examiner. As such, claim 25 and its dependent claims are in condition for allowance.

### Section 102 Rejections

Claims 1-43 and 48 stand rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Kokemohr (US 6,728,421). Kokemohr fails to teach the limitations of these claims for at least the following reasons.

Claim 1 recites in part, “determining a first tone value for a location within the image based upon attributes of pixels within a first automatically determined neighborhood surrounding the location, the first tone value specifying a local weight for a first tone adjustment in the image ... adjusting the image at the location using the first and second tone adjustments according to the local weights specified by the first and second tone values, respectively.”

The Examiner alleged that Kokemohr discloses “a first neighborhood surrounding a location” and “adjusting the image at the location.” This characterization of Kokemohr is not understood to be true. Consider, for example, the Pythagoras Distance Approach (6:54-6:59) and Color Curves (6:60-7:14). These functions compute the Euclidian distance and the difference in color or brightness between pixels in the IRPs and the current pixel. “In step 22, apply the image modification to a greater extent, if the location of the IRP is close to that of the current pixel, or apply it to a lesser extent, if the location of the IRP is further away from the current pixel.” 6:54-57. Consider also the description of the Mixing Function: “[t]hese attributes are compared to the attributes of the area where an IRP is positioned ....” 8:43-48. Note that claim 1 of Kokemohr claims “processing the digital image by applying the mixing function ....” These examples demonstrate that there is a distance between the pixels in the IPR and the current pixel. Thus, the Examiner has failed to show that the IRPs in Kokemohr surround the pixels which they modify.

Furthermore, Kokemohr teaches a method that whereby the user manually places the IRPs on the image. *See* col. 2, lines 25-28. *See also* col. 12, lines 8-14 (“after a user places an

IRP in the image”) and Fig. 4. In other words, the placement of IRPs is a manual process which is in stark contrast to claim 1 where neighborhoods are automatically determined.

Finally, the weights in Kokemohr are not understood to be local weights, as required by claim 1, which can change from pixel to pixel. Rather, the weights in Kokemohr are understood to be global weights that are constants pre-set by the user through the manual positioning of the IRPs.

For at least these reasons, Kokemohr does not anticipate the limitations of claims 1, 19, and 25, and their dependents. Applicants respectfully request the Examiner to withdraw rejections to these claims and corresponding dependent claims.

### **Section 103 Rejections**

Claims 44-47 are rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Kokemohr. As addressed above, these claims are not anticipated by Kokemohr. Furthermore, the examiner’s Official Notice fails to remedy the deficiencies in Kokemohr. As such, claims 44-47 are in condition for allowance.

### **Conclusion**

Applicants request the Examiner to enter amendments to the drawings and claims. The current claims are in allowable form for at least the reasons above.

By responding in the foregoing remarks only to particular positions taken by the examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the Applicant’s arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.


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To the extent necessary, a one-month petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge \$120 for the one-month extension of time fee and any shortage in fees due in connection with the filing of this paper to Deposit Account 06-1050 and please credit any excess fees to such deposit account.

Respectfully submitted,

Date: 9/11/07

  
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